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tween relatives which is claimed to be fraudulent as to creditors will be closely scrutinized.

[Ed. Note.—For other cases, see *Fraudulent Conveyances*, Cent Dig. § 329; Dec. Dig. § 101.\* 6 Va.-W. Va. Enc. Dig. 510; 6 Va.-W. Va. Enc. Dig. 566.]

**2. Fraudulent Conveyances (§ 299\*)—Evidence.**—Evidence held insufficient to show that a deed from a debtor to his mother was without consideration and made to defraud creditors.

[Ed. Note.—For other cases, see *Fraudulent Conveyances*, Cent Dig. §§ 876-890; Dec. Dig. § 299.\* 6 Va.-W. Va. Enc. Dig. 574, 666.]

Appeal from Circuit Court, Henrico County.

Bill by T. W. Chelf against J. P. Ford and another. From a decree for plaintiff, defendants appeal. Reversed.

*Jas. L. Shelton*, for appellants.

*H. St. John Coalter*, for appellee.

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PHILLIPS v. CITY OF PORTSMOUTH.

March 9, 1911.

[70 S. E. 502.]

**Action (§ 53\*)—Splitting Causes of Action.**—An assignee of a part of the sums claimed to be due a water company for several years added together, under a contract between the company and the city, may not without the consent of the city sue for such part without making the company and its assignees of the other part parties plaintiff, within the rule that a single cause of action arising on an entire contract cannot be divided by partial assignment so as to enable each assignee to sue for the part assigned.

[Ed. Note.—For other cases, see *Action*, Cent. Dig. §§ 549-623; Dec. Dig. § 53.\* 1 Va.-W. Va. Enc. Dig. 134, 765.]

Appeal from Circuit Court of City of Portsmouth.

Action by one Phillips against the City of Portsmouth. From a judgment for defendant, plaintiff appeals. Affirmed.

*R. Randolph Hicks* and *John G. Tilton*, for appellant.

*Jno. W. Happer* and *Frank L. Crocker*, for appellee.

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WICKHAM & NORTHROP v. LEFTWICH'S ADM'X.

March 9, 1911.

[70 S. E. 503.]

**1. Carriers (§ 320\*)—Street Railroads—Time to Alight—Premature Start—Question for Jury.**—In an action for death of plaintiff's

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes

intestate, while attempting to alight from a street car, evidence held to require submission of defendant's alleged negligence in prematurely starting the car as decedent was in the act of alighting to the jury.

[Ed. Note.—For other cases, see Carriers, Dec. Dig. § 320.\* 12 Va.-W. Va. Enc. Dig. 850, 851.]

**2. Trial (§ 63\*)—Appeal and Error (§ 970\*)—Matters of Discretion—Order of Proof—Review.**—It is within the discretion of the trial court to permit evidence which should have been introduced in chief to be offered in rebuttal, the exercise of which will not be controlled on appeal unless abused.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 151-153; Dec. Dig. § 63;\* Appeal and Error, Cent. Dig. §§ 3849-3851; Dec. Dig. § 970.\* 1 Va.-W. Va. Enc. Dig. 460; 5 Va.-W. Va. Enc. Dig. 354.]

**3. Carriers (§ 321\*)—Street Railroads—Death of Passenger—Instructions.**—In an action for death of a street car passenger by being thrown from the car by an alleged premature start, the court for defendant charged that there was no duty on the conductor to remain on the rear platform after the car was started or to take steps to avert an accident should a passenger on the rear platform be placed in a position of danger by his own negligence or otherwise after a signal to start the car was given, unless the conductor actually knew of such peril. At plaintiff's instance, the jury was instructed that if defendants' agents knew or by reasonable care could have known that plaintiff's intestate was attempting to alight, and by the highest degree of care could have prevented the accident, but did not do so, they should find for plaintiff. Held, that such instructions were reconcilable, and properly presented the opposing theories of the parties.

[Ed. Note.—For other cases, see Carriers, Dec. Dig. § 321.\* 12 Va.-W. Va. Enc. Dig. 850, 851.]

Appeal from Law and Equity Court of City of Richmond.

Action by Robert H. Leftwich's administratrix against Wickham & Northrop, as receivers of the Virginia Passenger & Power Company. Judgment for plaintiff, and defendants appeal. Affirmed.

*A. B. Guigon, H. W. Anderson, and Harold S. Bloomberg,*  
for appellants.

*Edgar B. English and O'Flaherty & Fulton,* for appellee.

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.